

Draft Legislation - Water Permit Fees

§ 62.1-44.15:6. Permit fee regulations.

A. The Board shall promulgate regulations establishing a fee assessment and collection system to recover a portion of the State Water Control Board's, ~~the Department of Game and Inland Fisheries' and the Department of Conservation and Recreation's~~ direct and indirect costs associated with the processing of an application to issue, reissue, amend or modify any permit or certificate, which the Board has authority to issue under this chapter and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of this title ~~from the applicant for such permit or certificate~~ for the purpose of more efficiently and expeditiously processing permits. The fees shall be exempt from statewide indirect costs charged and collected by the Department of Accounts. The Board shall have no authority to charge such fees where the authority to issue such permits has been delegated to another agency which imposes permit fees.

B. ~~Permit f~~ Fees charged an applicant shall reflect the average time and complexity of processing a permit in each of the various categories of permits and permit actions . However, notwithstanding any other provision of law, in no instance shall the Board charge a fee for a permit pertaining to a farming operation engaged in production for market or for a permit pertaining to maintenance dredging for federal navigation channels or other Corps of Engineers sponsored dredging projects-and in no instance shall the Board exceed the following amounts for the processing of each type of permit/certificate category:

Type of Permit/Certificate Category	Maximum Amount
1. Virginia Pollutant Discharge Elimination System	
Major	\$ 8,000
Minor	\$ 3,500
General	\$ 400
2. Virginia Pollution Abatement	
Industrial/Wastewater	\$ 5,000
Industrial/Sludge	\$ 2,500
Municipal/Wastewater	\$ 5,000
Municipal/Sludge	\$ 2,500
Other	————— \$ 250

3. 401 Certification/Virginia Water Protection

Individual \$ 3,000

General \$ 400

Waiver \$ 400

4. Ground Water Withdrawal \$ 2,000

5. Surface Water Withdrawal \$ 4,000

These caps shall be adjusted annually based upon changes in the Consumer Price Index, using calendar year 2004 as the base year. When modifications in these permits or certificates have been initiated by the Board, the fee for the modified permit or certificate shall not exceed seventy-five percent of the maximum amount established by this subsection. ~~Payments for the costs of processing applications by the Department of Game and Inland Fisheries and the Department of Conservation and Recreation shall be limited to the lesser of twenty five percent of the fees prescribed by regulation or \$100 per permit or certificate and shall further be limited to those permits or certificates these agencies are required to review by the Code of Virginia.~~

C. When promulgating regulations establishing permit fees, the Board shall take into account the permit fees charged in neighboring states and the importance of not placing existing or prospective industries in the Commonwealth at a competitive disadvantage.

D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the Board shall make a report on the implementation of the water permit program to the Senate Committee on Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House Committee on Appropriations, the House Committee on Agriculture, Chesapeake, Conservation and Natural Resources and the House Committee on Finance. The report shall include the following: (i) the total costs, both direct and indirect, including the costs of overhead, water quality planning, water quality assessment, operations coordination, and surface water and ground water investigations, (ii) the total fees collected by permit category, (iii) the amount of general funds allocated to the Board, (iv) the amount of federal funds received, (v) the Board's use of the fees, the general funds, and the federal funds, (vi) the number of permit applications received by category, (vii) the number of permits issued by category, (viii) the progress in eliminating permit backlogs, (ix) the timeliness of permit processing, and (x) ~~the direct and indirect costs to neighboring states of administering their water permit programs, including what~~

activities each state categorizes as direct and indirect costs, and the fees charged to the permit holders and applicants in neighboring states.

~~In addition, the 1998 report shall include an analysis and estimate of the annual costs to permit holders and permit applicants if the direct and indirect costs of administering the water permit program were to be apportioned in a manner that would require the permit holders and applicants to pay fifty, seventy five, and one hundred percent of the program's total cost through annual permit fees. The Department shall propose how the following factors could be used to adjust individual permit fees: (i) the average time and complexity of processing a permit in each of the various categories of permits and permit actions, (ii) the permit holder's compliance history, (iii) whether the permit holder has implemented pollution prevention plans, (iv) whether the applicant or permit holder has used innovative technology and (v) the financial hardship of the applicant or permit holder.~~

E. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund appropriation to the Board.

F. Permit fee schedules shall apply to permit programs in existence on July 1, 1992, any additional permits which may be required by the federal government and administered by the Board, or any new permit required pursuant to any law of the Commonwealth.

G. The Board is authorized to promulgate regulations establishing a schedule of reduced permit fees for facilities which have established a record of compliance with the terms and requirements of their permits. The Board shall also establish criteria to provide reductions to fee amounts based upon acceptance into the Department's programs for environmental excellence.

H. The adoption of such permit fee regulations shall be exempt from Article 2 of Chapter 40 of Title 2.2 (The Administrative Process Act). The Department shall provide notice and an opportunity for public comment prior to the adoption or amendment of any fee schedule.